

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MENDO LOVE,

Petitioner,

Case No. 15-cv-14497  
Hon. Matthew F. Leitman

v.

PAUL KLEE,

Respondent.

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**ORDER GRANTING COUNSEL PERMISSION  
TO WITHDRAW AS COUNSEL FOR PETITIONER AND  
GRANTING PETITIONER'S MOTION FOR A STAY [ECF #9]**

On December 30, 2015, attorney Suzanna Kostovski filed a petition for the writ of habeas corpus on behalf of Petitioner Mendo Love. (*See* ECF #1.) The Petition challenged Love's 2012 state-court convictions for first-degree murder, armed robbery, and felony-firearm on the basis that Love was denied the effective assistance of trial counsel. (*See id.*) The State filed an answer to the Petition (*see* ECF #6), and Ms. Kostovski filed a reply brief on Love's behalf (*see* ECF #8).

On August 22, 2017, Love filed a *pro se* motion in which he asked the Court to hold the Petition in abeyance while he returns to state court and pursues state remedies for a new and unexhausted claim that he is actually innocent of the crimes for which he was convicted. (*See* ECF #9.) In that motion, Love also stated that he "no longer has counsel due to [a] significant Attorney-Client relationship breakdown." (*Id.* at Pg. ID 961.)

Ms. Kostovski had not filed a motion to withdraw as counsel for Love, nor otherwise informed the Court that she no longer represented Love. Accordingly, the Court ordered Ms. Kostovski to either (1) file a motion to withdraw as Love's counsel or (2) inform the Court in writing that she remains Love's counsel. (*See* ECF #10.) In a recent response to the Court's order, Ms. Kostovski states that Love and his mother have decided her services are no longer necessary and that Love wishes to proceed *pro per* in this case. (*See* ECF #12.) Accordingly, **IT IS HEREBY ORDERED** that Ms. Kostovski is permitted to withdraw as Love's counsel.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall modify the docket for this case to show that Love is now proceeding as his own attorney. A copy of this order shall be sent to Love and Ms. Kostovski, but future filings in this case must be mailed to Love instead of Ms. Kostovski.

**IT IS FURTHER ORDERED** that Love's motion to hold his Petition in abeyance pending exhaustion of state remedies for his new claim (ECF #9) is **GRANTED**, and his current claim is held in abeyance. "District courts . . . ordinarily have authority to issue stays where such a stay would be a proper exercise of discretion," *Rhines v. Weber*, 544 U.S. 269, 276 (2005), and Love arguably has shown "good cause" for his failure to exhaust state remedies for his new claim. He purports to have new evidence of actual innocence. Furthermore, the new claim is potentially meritorious, and there is no indication that Love is engaged in intentionally dilatory litigation tactics. Thus, it is not an abuse of discretion to grant a stay.

**IT IS FURTHER ORDERED** that Love shall file a motion for relief from judgment in the state trial court within **sixty (60) days** of the date of this order. If he is unsuccessful in state court and wishes to return to this Court, he shall file a motion to re-open this case and an amended petition for the writ of habeas corpus, using the same caption and case number that appear on this order. The motion and amended petition must be filed within **sixty (60) days** of exhausting state remedies for Love's new claim. The Court expresses no opinion on whether any claims presented in an amended petition will be barred by the one-year statute of limitations, 28 U.S.C. § 2244(d), and any failure to comply with the conditions of this stay could result in the dismissal of this case. *Calhoun v. Bergh*, 769 F.3d 409, 411 (6th Cir. 2014).

**IT IS FURTHER ORDERED** that the Clerk of Court shall close this case for administrative purposes. Nothing in this order should be construed as an adjudication of Love's current claim regarding trial counsel.

s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: February 1, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 1, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda  
Case Manager  
(810) 341-9764